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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

HECTOR IVAN AMAYA,

Defendant and Appellant.

H038265

(Santa Clara County

Super. Ct. Nos. C1224203, C1087544,
C1109468)

Defendant Hector Ivan Amaya pleaded no contest to one count of vehicle theft (Veh. Code, § 10851, subd. (a)) as well as admitted an allegation that he had suffered a prior strike conviction (Pen. Code, § 1170.12, subd. (c)(1)).¹ Amaya was sentenced to the lower term of 16 months in prison, doubled to 32 months due to the strike prior, awarded total custody and conduct credits of 157 days and ordered to pay restitution along with various statutory fines and fees.

We appointed counsel to represent Amaya in this court. Appointed counsel filed an opening brief which states the case and the facts, but raises no specific issues. We notified Amaya of his right to submit written argument in his own behalf within 30 days. That period has elapsed, and we have received no written argument from Amaya.

¹ Further unspecified statutory references are to the Penal Code.

I. FACTUAL AND PROCEDURAL BACKGROUND

As Amaya pleaded no contest to the charges, we derive the facts from the probation report and other documents in the record on appeal.

A. Santa Clara County Superior Court Case No. C1087544²

By felony complaint filed September 15, 2010, Amaya was charged with one count of exhibiting an imitation firearm (§ 417.4, count 1) and one count of altering an imitation firearm (§ 12553, count 2). On November 10, 2010, Amaya pleaded no contest to count 1 with the understanding that he would be placed on probation and ordered to serve 10 months in jail. In addition, count 2 would be dismissed. On January 7, 2011, Amaya was placed on three years' probation, ordered to serve 10 months in county jail, awarded credits totaling 237 days, and directed to pay various fines and fees.

B. Santa Clara County Superior Court Case No. C1109468³

By felony complaint filed on June 20, 2011, Amaya was charged with two counts of assault with a deadly weapon (§ 245, subd. (a)(1), counts 1 & 3) and two counts of felony vandalism (§ 594, subds. (a), (b)(1), counts 2 & 4). The complaint further alleged that each of the offenses was committed for the benefit of, at the direction of, and in association with a criminal street gang. (§ 186.22, subd. (b)(1)(B).)

On October 3, 2011, Amaya pleaded no contest to counts 1 and 2 and admitted the street gang allegation with respect to count 1, in exchange for the dismissal of counts 3 and 4, as well as the street gang allegation associated with count 2.

On October 28, 2011, Amaya was placed on probation for three years⁴ and ordered to serve one year in jail, with total credits of 269 days. He was ordered to pay restitution to the victim in the amount of \$2198, along with various other statutory fines and fees.

² Amaya waived his rights to a preliminary hearing and a probation report in this case, so the facts of the offenses are not contained in the record on appeal.

³ Amaya waived his rights to a preliminary hearing and a probation report in this case, so the facts of the offenses are not contained in the record on appeal.

C. Santa Clara County Superior Court Case No. C1224203

On January 16, 2012, San Jose police officers observed Amaya driving a vehicle which had been previously reported stolen. He was stopped and arrested. When interviewed by police, Amaya admitted he was a “Tamilee Gangster” and had taken the car after he observed two Norteño gang members get out of it. Amaya admitted the car did not belong to him and that he did not have permission to drive it. The vehicle’s owner was contacted and she said she did not know Amaya and had not given anyone permission to use the car. She reported it stolen on January 15, 2012.

By felony complaint filed January 19, 2012, Amaya was charged with one count of vehicle theft (Veh. Code, § 10851, subd. (a), count 1) and one count of buying or receiving a stolen vehicle (§ 496d). The complaint further alleged that Amaya had a prior strike within the meaning of sections 667, subdivisions (b) through (i) and 1170.12.

On February 16, 2012, Amaya pleaded no contest to count 1 and admitted the strike prior allegation. He entered the plea with the understanding that count 2 would be dismissed and he would be sentenced to 32 months in prison, including the probation violations in case Nos. C1087544 and C1109468.

On April 3, 2012, Amaya was sentenced to the lower term of 16 months in prison, doubled to 32 months due to the strike prior, and awarded total credits of 157 days. He was ordered to pay a restitution fine of \$240 (§ 1202.4, subd. (b)), with an additional suspended \$240 restitution fine (§ 1202.45), a \$40 court security fee (§ 1465.8), a \$30 courtroom facilities fee (Gov. Code, § 70373), and \$600 in victim restitution. Amaya’s probation was terminated in case Nos. C1087544 and C1109468.

⁴ Also on that date, Amaya was found in violation of his probation in case No. C1087544. Probation was modified and extended to be co-terminous with the probation imposed in case No. C1109468.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106, we have reviewed the whole record and have concluded there is no arguable issue on appeal.

II. DISPOSITION

The judgment is affirmed.

Premo, J.

WE CONCUR:

Rushing, P.J.

Elia, J.